C.F. 71 (3)—6,006—26-1-43

1943.

Department of Revenue

OFFICE Board of Revenue

STATION Madras

Mis No. 1483/

G No 2715/43

Dated 15-11-43

D... 19 NOV 1943 19.1

Pages in the file. 31+20.

SUBJECT.

Cesses - Land cess (South Kanara)

Levy of cess - Protest - Managers Milagres

Church - Kallianpur Revision against

Dlrs order - Dismissed

## Back Papers.

| Dis. | No. | Department / Series. | Date. | Dis. | No. | Department / Series. | Date. |
|---|---|---|---|---|---|---|---|
| Di | 9/43 | 9/W.S.43 | | 3383 | Mis | 19.9.1910 | |
| Bt | B(S)Ben | 22.1.43 | | 809 | Mis | 5.3.10. | |
| 13 | Mis | 4250 | 9/28-12-13. | No | 203/15 | 93.315. | |
| Bt | 257 | Ben | 9/15.2.13. | 629 | Ben | 2-10-1867 | |
| Bt | 3305 | Mis | 20.9.12 | Bill | Chas, 16-17 | 9/168. 182, | |
| | 125 | Mis | 10.1.10. | | | | |
| Pol | 414 | Mis | 5.2 | | | | |

## Further Papers.

| Dis. | No. | Department / Series. | Date. | Dis. | No. | Department / Series. | Date. |
|---|---|---|---|---|---|---|---|

Single Member.

~~Two Members.~~

~~Full Board.~~

| I.A. | D.D.S. and L.R. | Assistant Secretary. L.R. | Irrigation. | Commercial Tax. | Court of Wards. | J.S. | Secretary. | M | M | M |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | 5 | 3 | 2 |

1. Open file seen by ..

2. Final draft seen by ..

3. Now circulated to ..

4. Initials .. ..

Passed for record.

*Secretary*

*Joint Secretary.*

~~A.S. (I.)~~,

A.S. (Irrigation).

~~A.S. (Commercial Tax~~

~~A.S. (Court of Wards)~~

~~D.D.S. and L.R.~~

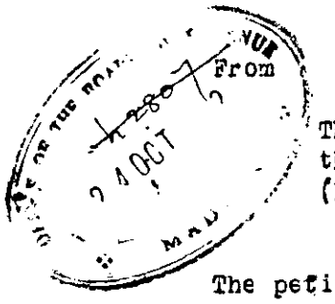
~~I.A.~~

NOTE.—Entries not required to be scored out.

M2715/42 - Vol P/5

To

The Board of Revenue of Madras



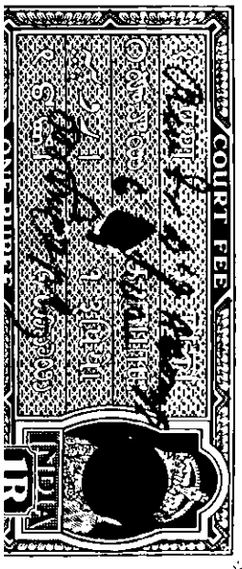
M2611/28

From

The Milagres Church, Kallianpur, by its Manager, )
the Very Rev. Fr. D. J. D'Souza, residing at Kallianpur) Petitoner.
(East Tonse) )

The petitioner above-named begs to state as follows:-

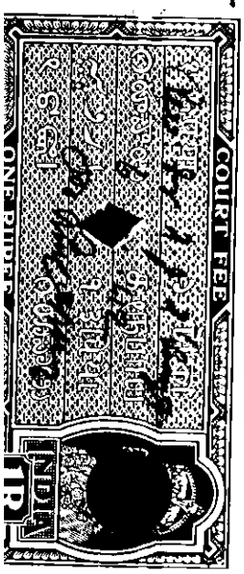
1. That the petitioner is a religious institution founded at Kallianpur by the Roman Catholic votaries of the place.



2. The land comprising Muli No. 36 of Badanidiyur village and Muli No. 8/ of Tonse Kasaba, rein the Church is located, is enjoyed by the petitioner by virtue of the Grant by the Governor-in-Council of Madras, as can be seen from the Title Deed No. 986 issued to the petitioner as Inam Land.

N: 6 15

3. The Inam is of the permanent fixed remission of the Government revenue for the maintainance of the petitioner Church and the said Inam is confirmed to the petitioner tax-free to be held without interference.



4. The petitioner submits that the Tahsildar of Udipi by his order dated 22-5-1942 to the Patel of Badanidiyur demanded the collection of back arrears of cesses in respect of plot Muli No. 36 of Badanidiyur village referred to supra and the Patel accordingly collected from the petitioner Rs. 85-8-0 on 5-6-1942 in respect thereof and thereafter the petitioner appealed to the District Magistrate of South Kanara setting out the grievances of the petitioner and praying for remission of the cesses. The petitioner received an order which has been forwarded herewith.

P7/5

5. The petitioner submits that it is not correct that the petitioner has paid cesses from 1918 up to 1936.

6. The petitioner to the Board for remission and relief on the following grounds:-

a) That the Inam to the petitioner is an absolute Inam on a permanent ed remission of revenue.

P 3/5

b) That the Title Deed issued to the petitioner y of which is enclosed herewith and the original will be forwarded if the tioner is called upon to produce the same) clearly shows that the Inam is tax-free and has to be enjoyed without any interference so long as the condition embodied therein is fulfilled (the condition being that if minerals are discovered and worked out he land is liable to be assessed.

c) That the cesses cannot be collected independantly for the assessment

d) That the grant to the Church as per the Title Deed referred to above is just like the grant to temples and other religious Endowment of like nature wherein no cesses are located.

e) There is no sufficient ground or justification for deleting the Inam land like that of the petitioner from account No. IO - I and entered in accoun No. 9 as such change will certainly remove the object of the Inam.

f) That if the remission of cesses is not granted there will be great hardship to the petitioner.

Prays therefore the Board may be pleased to revise the order of the Collector of South Kanara passes in D. Dis. 4512/42 dated 18-9-1942 and order remission of the cesses and the consequent refund of the monies collected from it by the Tahsildar of Udipi to the petitioner as mentioned above.

Kallianpur, S.K.;
Dated, 17th October 1942.

D J D'Souza
Manager

Milagres Church, Kallianpur:
S.K.

N Dis. N 2611/42 dated 2.11.42

The petition should bear Court-fee Stamps to the Value of Rs.2/-, and as it does not bear them, it is rejected. The petition will be readmitted and considered, if it is represented within a month from the date of this order after affixing Court fee Stamps to the Value of Rs. 2/- (Rupees Two only) and if it is not time barred.

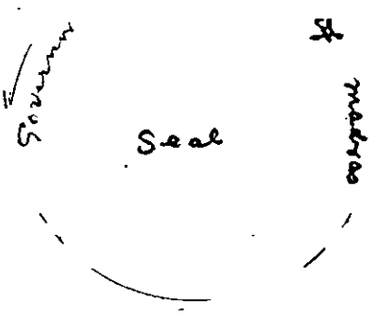
8-NOV1942

2/11/42

Asst. Secretary
Bdy Revenue and Rev & Dvi Galis
Salem

6/11/42 Letter

Head
Court stamp has been affixed and it directed
6.11.1942 D.J.D'Souza
Kallianpur, S. Kanara




No. 986

TITLE DEED granted to

The Manager for the time being of the Roamn Catholic Church at Kallianpu

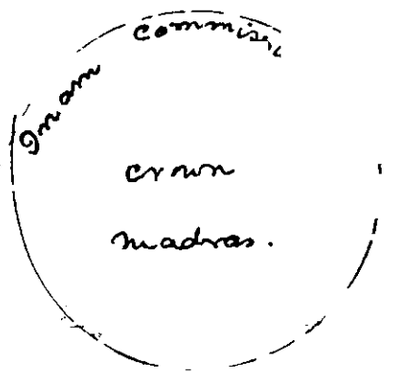
I. By order of the Governor in Council of Madras acting on behalf of the Secretary of State for India in Council, I acknowledge your Title to a religious Endowment or Church Inam consisting of the right to the Government revenue amounting to Rs. 254/- (Rs. Two hundred and fifty four) on Wurgs mentioned on the reverse of this Deed and situated in the Taluk of Udipi, District of South Kanara, and now held for the maintainance of the above mentioned Church.

2. This Inam is confirmed to you and your successors tax-free, to be held without interference so long as the conditions of the grant are duly fulfilled.

- 3. The land referred to in clause I supra is liable to pay assessment if minerals are discovered and worked in it.

Dated, 12th January 1915. Sd/ X X X

Madras. Inam Commissioner.



Case No. 9

( True Copy )

D'Souza

| Magane. | Village. | No. of Chittah. | Name of Murg. | Area in Viz. |
|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 |
| Padamannur | Padanidiyuru, | Muli No. 36 | Kallianpur Church. | 162 - 9 - 0 |
| Tonse | Tonse Kasaba. | and | Igarji Mirni Jaki. | |
| | | Muli No. 84 | | 91 - 7 - 0 |
| | | situated in | | ---------- |
| | | Tonse East. | | 254 - 0 - 0 |

Compared with the original. Correct.

[signature]

[illegible]

10.1.1963.

Ls. 4512-42.

Proceedings of the Collector of South Kanara, dated 16-9-42.

---

M.Karamatullah, Esq., I.C.S.

---

Cesses - Land cess - Church inam -Title deed No.986- Badanidiyur village, Udipi Taluk -Levy of protest -application - orders passed.

Ref: Petition dated 14-6-42 from the Very Rev. Fr. D.J.D'Souz Manager, The Milagres Church, Kallianpur, East Tonse village.

2. Udipi Tahsildar's report N.Dis. 6439-42 dated 23-7-42.
3. Coondapoor Rev.Divl.Officer's N.Dis. 3880-42 dated 5-9-42.

---

Order.

The inam was granted on 12-1-1915 and the Church was paying cesses from that date till Fasli 1346. In that year it was ordered that the inam lands should be deleted from 10-I and entered in Account No.9. This account clearly contemplates levy of cesses. The Jamabandy officer's orders to collect cesses is therefore correct. The petition is rejected.

(By order)

18.9.42

Huzur Sheristedar.

To the petitioner.
Copy to the Tahsildar, Udipi with his D.Dis. 11934/41 returned.
" Rev. Divl.Officer, Coondapoor.

Cesses-Land cess - (South Kanara) - Udupi taluk - Badanidiyur village - T.D.No 986 - Levy of cess - Appeal petn from the manager, the Milagres church, Kalliampur - Remarks called for

27/11 27-11

Petn.

Pt-3 of n 2715/42 - from the manager, Milagres church Kalliampur dated 17-10-42

27 NOV 1942

Pt-7 of Refce: n 2715/42-1 dated 26-11-42

Forwarded to the coltr of South Kanara for the submission of the records together with a report on all the allegations contained in the petition not clearly dealt with in the records.

The collr. is also requested to report whether the inam finds place in the list of money allowances appended to Go. No. 2065 Rev, dated 9-10-29, and to submit an extract from the inam and your rent regn. relating to the Dy., with extracts from the old records relating to the inam, if available, with English translations wherever necessary.

25-11-29

24/11/29
25/11/29

To the Collr. of South Kanara

H.F. 7 y with a petn. & its enclosures movg.

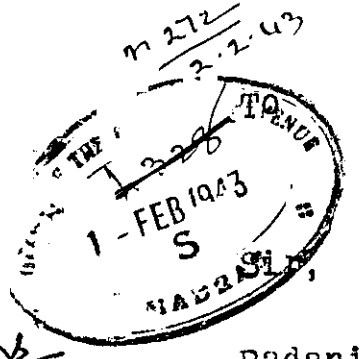
(to be returned with reply)

L.Dis.No.9427/42.

South Kanara Collector's Office,
Mangalore, 29th January 1943.

From

M. Karamatullah, Esq., I.C.S.,
Collector of South Kanara..



The Secretary to the Board,
and Revenue & Irrigation,
Salem.

Cesses - Land cess - South Kanara - Udipi Taluk - Badanidiyur village - T.D.No.986 - Levy of cess - Appeal petition from the Manager, the Milagres Church, Kallianpur Remarks.

Refce: Board's Refce.N.2715/42-1, dated 23.11.42.

*****

The appellant, the holder of Inam T.D.No.986, protests against the levy of land cess on the assessment of the lands granted to the petitioner on the plea that according to condition No.2 of the title deed, the inam is 'tax free' and that cesses cannot be levied in respect of it as no assessment is collected. The inam was granted on ------ 12.1.1915 and the church was paying cesses from that date till Fasli 1346. In that year it was ordered that the inam lands should be deleted from 10.1 and entered in Village Accounts No.9 agreeably to the instructions issued in B.P. Mis.No.4250, dated 20.12.1913. This account clearly contemplates levy of cesses - please see instructions at page 7 of the Manual of Village Accounts - Special - for the South

Kanara District. The same rule has been repeated in Section 79(ii) of the Madras Local Board's Act, 1920.

2. The inam finds a place at page 108 of the list of money allowances appended to G.O.No.2065 Rev., dated 9.10.1929 and also as item 41 at page 8 of the Register of Allowances appended to B.P.No.2164, dated 13.9.1867. Church inams granted in 1915 do not find place in the Huzur Inam Register. No other old records relating to the inam are also available.

Sulyer asst ✓ 11/2

N 272/43-Q.

-For Collector.

30.1.43.

Refa. N 2715/42-2 dated 8-2-43.

8/2/43

The curator M.R.I. chittur is requested to send the following B.P.s. to Salem office, as they are required for N 2715/42.

(i) B.P. Mis. 4250 dated 20-12-1913.

(ii) B.P. No. 3140 dated 7-7-1860:

(iii) B.P. N. 2164 dated 13-9-1867 and other connected papers.

8/2/43 BPR

To the curator M.R.I. chittur.

Issue BPR 8/2/43

Records recd. from curator M.R.I. on 16/2 = Kvic

Letter No N 215-2 VI 43 16/2 13-2-43

13

Cesses – Land cess – (South Kanara) – Udipi Taluk – Bodandyur Vge – T.D.No. 986 – Levy of cess – Offer from the Manager Milagres church, Kallianpur — original T.D. and ~~other records~~ further report – Records called for.

Rctr. from Manager, Milagres church Kallianpur 9/12/42

From the Collr. of South Kanara L.Dis. 9427/42 9/29.1.43

Refce. N 2715/42-3 dated 8-3-43.

The Collr. is requested to obtain from the Manag Milagres church Kallianpur the original T.D.No. 986 issued to him and submit it to the Board for reference and return. With the Roll of the T.D. the Collr. is also requested to trace the D.R. and the Vernacular register and to submit extracts from them relating to the T.D. in question. The no. and date of the D.'s order in which the T.D. was issued/Showed on 12-7-1915 also be traced and furnished.

9 MAR 1943

RI do corr 8/3/43

14/ read above

2. From para 1 of the Collr's letter, it is seen that the church in question is enjoying the inam lands/ tax free, relating to the TD while para 2 thereof of the Collr's letter shows that the inam is entered in the list of money allowances. The Collr. is requested to definitely report whether the church in question is enjoying the lands tax free or receives only the money allowance of Rs. 25-4/- mentioned in the TD. and if it is the former, how the inam finds place in the list of money allowances appended to G.O. No 2065 Rev. dated 9-10-29. (2) (2)

3. The curator R.R.C. is requested to send the inam owners disposal of 1915 in which T.D. No. 986 was issued, Brahmavar Vge, Udipi Taluk, South Kanara Dt. was issued in favour of the Manager for the time being of the Roman Catholic church (Milagres church) at Kallianpur, and other connected records if available.

To the Collr. S Kanara (paras 1 & 2)

To the curator R.R. Chittoor (para 3 only) with a copy of T.D. for ref. His file etc.

15/5/43 E.P.R. 13

8.5.43

L.Dis.No.334 D VIII/43. 15 Madras Record Office,
Chittoor. 16-3-1943.

From

V.J.George Esq., B.A.,Dip.,Econ.,
Assistant Curator, Madras Record Office, Chittoor.

n566
MAR 1943
MADRAS

To

The Assistant Secretary, Board of Revenue, Salem.

Sir,

Sub:- Cesses - Land Cess - South Kanara - Udipi taluk - Bodanidiyur village - T.D,No.986 - Levy of cess - Appeal from the manager Milagres Church, Kallianpur - Original T.D. and Further report and records called for.

---

Ref:- n.2715/42-3 dated 8th March 1943.

---

Inam Commissioner's disposal No.203 dated 3-3-1915 containing the Title deed of Bodanidiyur village in favour of the Manager of the Church of our Lady of Miracles, Kallianpur and the

the connected papers are furnished. Some of the connect papers were furnished to you on 13-2-1943 for the same current number.

(151)

Please acknowledge receipt.

Assistant Curator.
17-3-1943.

KSC. 17.3.43

The receipt of the undermentioned papers is acknowledged.
1) Fin. Dis. 203/33 1915
2) -Do- 443/7.11.1898.
3) Bds Cmsn. 16-17 of 16.8.1824.

Acknowledgment sent to the Curator, Hist. Sec. 26 MAR 1943

BPL 26/3 26/3

of c

Ceded Land Cess - (Sirsi Kanara) - Yadipi DK

Bodanidigur Vge - TD 486 - Levy years -

Appeal from the Manager Nilagres church - original

2 APR 1943 TD; records further report - called for

Bds refce. n. no. 2715/42-3 dated 8-3-43 - R

Letter from the Curator NRD. Lgr in 334 A VIII/43 dated 16-3-43 - R.

Refce. n. no. 2715/42-4 dated 1-4-43.

In continuation of the Bds refce. read above, the Coll's attention is invited to ~~his letter~~ the correspondence contained in his letter Dis. no. 680 R/Rev. 14 dated 4-12-1914

(Curator's Volume)

and the D.C's letter R.C. No 879/13 dated 2-2-1915 thereon in which D.Dis. 986 and ~~the~~ extracts from the Inam Equit rent regrs were sent to him, and he is requested to submit the original D.C. and other records, and the report called for in paras of the B.d's refce. read above Lat an early date.

PP 13764

31.7.917

1/8/43.

EPR 31/8

31.7.917

PP 2/4

To the Coll. of South Kanara.

L.Dis.1924/43. 19

South Kanara Collector's Office,
Mangalore, 15th May 1943.

From

M. Karamatullah, Esq., I.C.S.,
Collector of South Kanara.

The Secretary to the
Commissioner of Land Revenue &
Irrigation, S a l e m.

Sir,

Cesses - Land cess - South Kanara - Udipi Taluk - Badanidiyur village - T.D.986 - Levy of cess - Appeal from the Milagres Church - Kallianpur - Further report.

Refce: 1. Board's Refce.n.No.2715/42-3, dated 8.3.43.
2. " 2715/42-4, dated 1.4.43.

The original T.D.No.986 issued to the Manager, Milagres Church, Kallianpur, is submitted herewith. The extract from the Inam and Quit Rent Register relating to the inam in question ---- received from the Inam Commissioner, Madras, with his letter, R.C. No.879/13, dated 2.2.1915 is also enclosed. The title deed was issued agreeably to the orders passed in G.O.No.2545, Rev., dated 23.8.1913 communicated in B.P.257, R.S., Sur.L.Rds and Agri., dated 15.9.1913. Village Account No.9 was ordered to be opened in -----

respect of the villages in which Church inam lands occur - pgs (7).
please see B.P.Mis.No.4250, dated 20.12.1913.

2. The church inam aggregating to Rs.254/- was being paid by assignment of land revenue of Muli Wargs Nos.36 of Badanidiyur and 84 of Tonse East. Hence the inams relating to the T.D. was entered in the list of money allowances. It appears that the assessment on these lands was remitted under G.O.No.587, dated 10.8.1821.

(T)

Ac (I)

For Collector.

18.5.43.

To A.S (I).

The Inam and quit-rent regrs. relating to the TD. have been called for from ~~Madras~~ the Inam Records of the Madras office. The file may be received by 31.5.43 by which time the regrs. may be expected to be received here.

28/5/43

28/5/43

28/5

To A.S(I). The inam & quit rent regrs called for on 28.5.43 have not yet been received from Madras office and the RR has been reminded about today. It is said that this may be received by 5.6.43 for the required regrs.

A.S(I)

cesses – Land cess – (Smt. Kamara)

Udipi Tk – Bodanidiguru Vge – Dy No 980 – Nalagres church – Land or money allowance – grant – further report – called for.

7 JUN 1943

Ir 19-2-43 R 903/43 – from the Colr. of S Kanara Lr Dis. No. 1924/43 dated 15-5-43-Q.

Rejn. R 2715/42-5 dated 7-6-43

1-19-43 The extract from the J.F.R relating to the Dy reported to have been sent with the Colr's letter read above, has not been rcd. The Colr. is requested to send it at any early date. 2/ He is also requested to report distinctly on the following points:—

(i) Whether the church is enjoying the land relating to the Dy. free, or whether it gets only a money allowance of Rs. 25-4 from the asst on the lands, which the lands are in the possession of others paying land revenue thereon

(ii) Dy of (Jagir)

(ii) what are the Extents lands ~~the~~ asst. relating to the mians directed by the TD., and

(iii) If the church is enjoying the lands, and if the actual asst. on the lands is more than Rs. 25/-, whether the church is paying the difference of the actual asst. and the specified in the TD this amount is being collected as land revenue on the lands.

Yours

5/6/43.

5/6.

To the collr.
of South Kanara

RI to comm. on 7.8.43.

C.F. 98.

Revenue Department.

**REMINDER.** Board of Rev LR 9 Branch.

To The Collector

Sadan Kamaran

~~I have the honour to invite~~
I am directed to invite attention to

~~Reference~~ No. N 2715/42-5 dated 7-8-43 and

~~to request that the reply to it may be expedited~~
to request that this reminder may be returned ~~at once~~ with information as to— before 20-8-43

(1) the stage at which the matter now is, &

(2) the date by which a reply may be expected,

~~and~~

~~(3) the circumstances which have caused the delay~~

(P.T.O.)

Office Board of Rev LR 9. Signature

Station Madras Designation.

Dated 7-8-43 *SUBJECT.* Section.

Cesses - Land Cess - (Sadan Kamaran)
Vilpor TK - Bodam Agrm Vge - TD
986 - Nilagres Church - Land or
Money Allowance - Further report.

Rfc 4739/43/A5

C.P. 95.

REPLY.

To The Secretary, Board of R
Land, Madras

Sir,

The papers are typed
with the Tahsildar, sir. I
am remanding him again.
I shall submit the report
immediately on receipt of the
Tahsildar's reply

1st AUG V. 13/8/43
for Collector.
13/8/43

In Sept my 1/9
This may be carded on Wednesday
and the case may be removed
by recy. on 1-9-43.
VE. 018 18/8/43

I.Dis. 4709-43. South Kanara Collector's Office,
Mangalore, dated 1 - 8 - 1943.

From

L. Karamatullah, Esq., I.C.S.,
Collector of South Kanara.

To

The Secretary to the Commissioner
of Land Revenue and Irrigation, Salem.

Sir,

Cesses - Land cess (South Kanara) - Udipi Taluk - Badanidiyur village - T.D.No.986 - Pilagres Church - land or money allowance-grant - further report.

Refce: Board's Ref.No.n.2715-42-5 dated 7-6-43.

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The extract mentioned in my report L.Dis. 1924-43 dated 15-5-43 was the one received from the Inam Commissioner, Madras with his letter R.C.No. 879/15 dated 2-2-15 and no other extract was reported as having been sent with my report.

2. Enquiries show that the Church is enjoying the inam lands relating to the T.D. The actual assessment on the lands comes to Rs. 285-6-0 i.e., more than Rs.254 inam allowance, but the Church has not been paying the difference between the actual assessment and the amount specified in the T.D. as land revenue on the lands.

For Collector.

21.8.43

27

237 Cess – Land Cess – (S. Kanara) – Whether TK – Inam lands held under tax free tenure – Levy. – Meaning of the word 'tax free' in Inams – Information required

Ref. No 2715/42-6 dated 23-9-48.

The G.P. Madras is requested to ~~state whether there are any~~ (if any) ~~High~~ & construction rulings about the meaning of the word "tax free" used in the title deeds issued by the Inam Commissioner and ~~whether it is intended to ascertain the exact relevant portions where it is declared to be tax free~~ and also to send an extract from the relevant ~~published rules~~

~~To the G.P. Madras.~~

~~and also~~ ~~portions, as they are required for~~ the words in square brackets are necessary

~~citing~~ the question of the ~~the~~ ~~of~~ ~~cess~~ on mines granted duty free. ~~He is also requested to send M.L.J. II Vol. 1942 (page 150) for reference and return if possible.~~

16/9/43 21.9.43

To the G.P. Madras.

No. 1573 of 1943 Government Pleader's Office, Madras, dated 14-10-43.

B 1825 16 OCT 1943 9 (2-47) MADRAS

Cess - Land Cess - (South Kanara) - Udipi taluk Inam lands held under Tax-free tenure - levy Meaning of ~~the~~ "Tax-free" in T.D. Board's Refce. I/N.2715/42-6 dated 23-9-43.

---

As far as I am aware, there is no case which deals with the meaning and the construction of the expression "tax-free". In a recent case the Madras High Court held that where lands are held free from land tax, the Government have no right to levy water cess under the Irrigation Cess Act (vide I.L.R. 1943 Mad. 34).

14-10-43

Government Pleader.

To, The Secretary Board of Revenue, Madras.

[Mr. E.C. WJ 31

16.11. Cesses – Land cess – (S. Kanara) – Udipi TK – Bodanidiyur Vge – TD No. 986 – Levy of cess – Protest Manager Milagres church Kallianpur – Revision against Coll's order – Dismissed.

Pr 1-3 of 43
Pr 11 of 43
Pr 19 of 43
Pr 25 of 43

R 2715/42 – Petn. from the Manager, Milagres church Kallianpur dated 17-10-42 ——— Q.

From the Coll. of S. Kanara R.Dis 9427/42 dt 29.1.43
-Do- " 1924/43 dt 15.5.43
-Do- " 4789/43 dt 24.8.43.
} Q

Low Land Cess 15 per

Dep. Mis. No. 1483/43 dated 16-7-43

The manager Milagres church, Kallia-pur is informed that the word 'tax free' used in the title deed issued to him, does not mean that the land is free from

(N)

liability to pay)

Land Cess levied under Local Boards Act, but that it means only exemption from land assessment. The revision petition is therefore dismissed.

2. The records sent by the Collr. which are noted below are here with returned.

1) original TD. No. 986 dated 12-1-1915 (N)
2) Regr. of Joint Brahmadaya inams relating to the TD. 11-21-22 (J)
3) Collr's Dis. file No. 4512/42 of 11-9-42 (D)

1/11/43 (Gd 13 pages)

15.11.43

To the petr. (Para 1)
(Manager Pulagres church Kallimpur S. Kanara.)

To the Collr. of S. Kanara
(with records returned.
1) Collrs Dis. file 4512/42
2) Joint Brahmadaya Regr.
3) original TD 986.
By RP.

JS

A.S(LR)
Hon'ble Secy
re. levy of cess.
16/11/42

20,002—10-10-33.

**PETITION NOTE FILE.**

R.No. 2715/42

SUBJECT.— Cesses - Land Cess - (South Kanara) - Udipi taluk Badanidiyur Vge - T.P. 986 - ~~Survey Grant~~ Parish allowance. survey allowance. - church warm - levy Protest against Collr's order - Appeal.

DATE OF RECEIPT.— 9-11-42 vide p3 of

NOTE.—If the answer to any of the questions noted below admits of a simple and direct answer, this answer should be noted against the question. Where the answer is in doubt and requires discussion and orders, the words "see below" should be entered instead and the question dealt with in the body of the Office note under the numbered heading which will be repeated for the purpose.

1. Nature of Petition? (Original, appeal, or revision).

✓ Appeal against the Collr's order dated 16.9.42. p7 of

2. Under what statute, law or other provision, is it preferred?

✓ B.S.O. 172 para 8(ii) p943 of Bd's Vol IV p471

3. In cases of appeal or revision—Authority on which original (and lower appellate) orders were passed.

4. Under what authority does the Board entertain this petition?

✓ Board's general powers of revision.

5. *Stamps* (Quote authority in every case).—

(*a*) Is the petition with enclosures properly stamped ?

✓
yes.

(*b*) If exempt from stamp duty, state authority.

✓
within time. p7 of
Coll's order is dated 16.9.42.
Time for appeal is 3 months.
Petition received first on 24.10.42
Hence within time.
vide Bom 172-para 8(ii).
p943 of Bom Vol IV.

6. *Limitation*—

(*a*) Is the petition in time—State time allowed—With authority ?

(*b*) If the petition is time barred—

I. Is there authority to condone delay ?

—

II. If so, state here any grounds adduced for condonation.

—

✓
Vide next page.

7. *Miscellaneous.*—Are there any other technical points for consideration ? If so, state them briefly.

Wt-5 of

This is an appeal against the Collrs orders regarding the levy of cess, on the inam covered by T.D.No. 986 of Bodinidiyur Vge, Udipi Taluk, South Kanara district, and for the refund of cess of Rs.85-8-0 collected from the manager of the institution on 5.6.42. From a perusal of the South Kanara Dt. Manual it will be seen that there are no inams in the sense of lands held free of asst, and that an inam is merely an assignment of the asst. due to Govt. called the taskik allowance. A copy of the T.D. issued in 1911-5, from the manager shows that only an amount of Rs. 254/- being the Govt. revenue on certain wargs, was granted as 'inam', to the manager for the time being of the Roman catholic church at Kallianpur. But para 3 of the T.D. refers to land. It is therefore not clear whether the grant relates to 'money allowance' only or 'the assignment of land revenue on certain lands in the wargs as inam. ~~If the grant relates to rent free lands, the collection of cess is legal, and if relates to only money allowance, the levy of cess is not justifiable.~~

Vide para 4 of pltf's writ petn (Page No. 132 of Manual)

pltf's

As the point is rather true, it is held it may be admitted, and that a report may be called for from the Collr. on the allegations contained in the petition. It is held that the coll. may also be asked to report whether the grant relates to ~~only~~ 'money allowance' or 'the assignment of land revenue' both refer to the old records available, and how the levy of cess is justified if it relates to money allowance

N 2715/42

mentioned in para 1 of the TD. He may also be asked to report whether the inam finds place in the list of ~~enjoy~~ money allowances appended to G.O. No. 2065 Rev. dated 9-10-29, and to submit an extract from the inam and quit rent registers relating to the TD. with extracts from old records if any available with Eng. translations wherever necy. For orders ~~Board~~ the Board will please note further on the question whether any gens amount is in this case for points 2, 3 & 6 given below. note file.

(Board's Mem. dt. 7/11/42)

7/11/42 Collector

The facts of the case are not clear from the Collr's. order. This does not seem to be an appeal under S 86 of the Local Boards Act as there is no objection to the amount of cess. Treating this as a miscellaneous petition (limitation 3 months) the records may be called for.

p7 of 5673 dt. BK 25-

KG 18/11/42

The petition may be considered as a revision petition and collector's remarks may be called for with record.

V may p 3 C.F 28/11/ portion II.

S. U. U. 42

From p. 3 N.F.

ASSISTANT SECRETARY. 21 NOV 1942

To AS (I)

AS (II)

Draft Subd.

25. U. 42

24/11/42 Collector

pk11-12cf From the Curr. of S-Kanara Lr.No 9427/42 d 29.1.43

To A.S.(I).

The records mentioned in the collrs letter may be called for from the curator. HRD. ✠ - A draft reference to the Curator is Subd. at p12cf for approval

6/2/43.

A.S.(I) with a book (S.K. Manual) p12cf

From the Curator HRD. No. 2152 VIII/43 dated 13.2.43

To A.S.(I).

The manager of Milagres church Kallianpur, p1-3cf of South Kanara district has preferred an appeal against the Collr's order regarding the levy of cess p7cf; Also p7-8cf(A) in respect of the inam Covered by T.D.No. 986 of Bada-nadayur village, Udipi taluk, and has requested that the cesses collected from him on 5-6-42 might be refunded to him and that no cess need be collected from him in future. His argument for such a request varas b(a) & c of p1&3cf is that the inam is an absolute inam on a permanent fixed remission of revenue, and that cesses cannot be collected dependantly of the assessment. He has produced a copy of the T.D. which is p5cf stated to have been issued in favour of the Manager of the Church in 1915. It shows that an amount of Rs. 254/- being the Govt. revenue on certain wargs mentioned on the reverse of the T.D., was granted as a religious endowment or church inam for the maintenance of the church. The point for consideration is whether the grant relates to 'money allowance' only, or to

the assignment of land revenue on lands enjoyed as inam.
The Collr. states that the inam was granted on 12-1-1915, that it finds place in the list of money allowances appended to G.O. No. 2065 Rev. dated 9-10-29, and that it is also shown as item No. 41 at p. 8 of the regr. of allowances appended to B.P. No. 2164 dated 13-9-1867. He also states that church inams granted in 1915 do not find place in the Govt inam register.

In the Sixth Kanara Dr. manual, it has been mentioned at p. 132, that, "in the Dt. of South Kanara, there are no inams in the sense of lands held free of assessment", and that an inam is merely an assignment of the asst. due to Govt. called the Tasdik allowance. Hence, if the grant in this case is only a fixed sum, or, allowance to the church then the church is not liable to the payment of cess on the inam; on the other hand, if the church is enjoying the lands tax free as inam, the levy of cess will become justifiable in this case. In this connection attention is solicited to paras 1 to 5 the notes at pp 26-32 of the B.P. at (E), and the orders of Govt. in G.O. No 2545, Revenue, dated 23-8-1913, from which it will be seen that in the case of churches which were enjoying lands as inam, the Govt. ~~decided~~ approved the proposals of the Board and the D.C. to issue ~~the issue of~~ D.Ps. in respect of the lands held by them. It is perhaps with refce. to this order, a T.D. might have been issued by the D.C. in 1915. The circumstances under which the Collr. states that the D.P.R. is not available in respect of the inam is not clear. The R.K. reads also states that the inam & quit rent regrs. relating to the T.D.

p 11 c of J

p 12 of (I) & p 109 of Book of money allowances

p 12 of

p 12 of

Vide Pt I of (E)

p 12 of

Vide Pt I of

are not traceable in the Dr's records. In as much as a T.D. appears to have been issued by the Dr. in 1915, there must have been an inam regr. relating to this case. In the circumstances, before deciding this question it is suld. that the petr. may be asked to obtain and forward the original T.D. for refce. and return, to trace the D.R. relating to the T.D. and to send an extract from it with an extract from the quit rent regr. and also to report whether the church in question is enjoying the inam lands relating to the T.D. taxfree or not.

Vor 1 on 6(a) of P/C/F

A

The Collr may be asked to report as at 'A' above.

This is clear from the Coll's report. 27/2/43.

2/3.

EPR 1/3

Where are the Board's papers re the T.D No 986 which issued on 12.1.1915?

2 Copy

Refce:- Asst-Secy's query above.

A.S(I)

To A.S.(I).

Perusal is solicited to the note sent to the Rtd. Madras regarding the tracing of the inam and quit rent register relating to the T.D, and to his reply thereto. He states that it is being traced and will be sent to Salem office if traced. He wants that in the mean while, extracts may be called for, from the Collr. As the petr. states that he will produce the original T.D. if called for, the Collr. may be asked to obtain it, and also to trace the D.R. relating to that T.D. and to send an extract from it. The curator M.R.O. may also be asked to send the Inam Commrs proposal on which

(B) at (B)

Vor 6(a) of P/C/F

the TD. was issued in 1915.

ps BS 5.3.43

For orders.

U 3/3/43.

EPR 3/3

DS(I)

To A.S(I)

Draft submitted. Para 2 is adopted subject to approval.

U 5/3/43.

EPR 6/3

Para 2 of the draft may, it is felt, remain

BS 6.3.43

AS(I)

From the Collr Nellore LDis No. 334 D VIII/43 dt 16.3.43. pp 15-16 cf

To A.S(I).

From the correspondence at pp 14-21 cf of Dis Dis No. 203 of 1915 dated 3.3.15, it is seen that TDs were ordered to be issued in respect of lands held by ~~Roman Catholics~~ certain churches in Sinta Kamara Dt. and that TD No. 986 of Rudipi TK was also issued in Inam Comm's Refce. Rc No 879/13 dated 2-2-1915. The Collr's attention may be drawn to this refce in continuation of pp 13-14 cf. and he may be asked to submit the orgnl TD and the report called for in paras 1 and 2 of the Bds's refce ~~dt dt~~ mentioned above.

pp 14-21 cf (X)

pp 20-21 cf (X)

pp 13-14 cf

A draft to the Collr. of Sinta Kamara is laid below

For approval

BS 7.3.43.

10/3/43.

EPR 31/3

AS(I)

[Time obtained 4th 5.6.43]

From the Collr. of S Kamara LDis No 1926/43 dt 18.3.43 pp 19-20 c

To A.S(I)

2. The notes at pp 5-8 nf above are for perusal. As the 2 R tquis sent registers called for from Madras have not so far been recd the following notes is subj

The original TD. No. 986 issued in favour of the manager of the church is at (N). It shows that an amount of Rs. 2.54, being the Govt. revenue on certain wargs was granted as inam in this case. The land is mentioned in the 3 grant TD. also. The corr. states that this amount was being paid by assignment of land revenue on Kuli wargs no. 36 of Bodani digvel Vge. and 84 of Tonse East, and that the inam was therefore entered in the list of money allowances. If the church is enjoying the lands tax free, there is no reason in mentioning the inam in the list of money allowances. It is therefore still not clear whether the church is enjoying the lands themselves tax free, or whether it receives the amount of Rs. 2.54 only as specified in the TD. as inam. In the circumstances, to be on the safe side, the corr. may be asked to report definitely, whether the Church is enjoying the inam lands themselves tax free or whether it receives the amount of Rs 2.54 only as specified in the TD. as money allowance, and what the actual extents and assts. of the inam lands are and whether the church is paying the difference of actual asst. and the amount specified in the TD. as land revenue, if it is enjoying the lands themselves. The corr. has not also sent the T.R. extract mentioned in his letter at

para 2 of p2 of

19-20 cf. It may also be called for.

A draft to Collr., is subd. below for approval

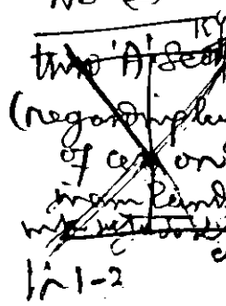
5/6/43

5/6/43

5/6. From the Collr. of S. Kanara Lr. No. 4739/43 dated 21-8-43. p25 cf

To A.S.(I).

The file in question relates to an appeal preferred, the manager, Milagres church, Kallianpur against the order of the collr. of S. Kanara ~~regarding levying land cess~~ recorded asst. on the ~~tax~~ of cots (on the inam covered by T.D. No. 986 of Bodanidigur Vge, in Udipi taluk, S. Kanara Dt., ~~which~~ the petitioner's contention is that the inam in question is held tax-free — in accordance with the words in para 2 of the ~~grant absolute inam on a permanent fixed commission~~ of revenue and that cesses cannot ~~be collected~~ be collected independently of the asst. He therefore requests that the cesses (of Rs 85-8-0 collected from him on 5-6-42 may be refunded to him and that he may be granted remission of cesses in future. The petitioner has submitted the original T.D. No. 986 issued to him on 12-1-1915 ~~and it is seen~~ at (N). From a perusal of the T.D. it is seen that an amount of Rs. 25 4/- being the Govt. revenue on certain wastes mentioned in the reverse of the T.D. was granted as a religious movement or church inam for the maintenance of the Church.. The inam regr. relating to the T.D. and also relating to cases of lands held free of asst. by the Roman Catholic churches in South Kanara district is ~~found~~ at (D).



N4
F.?
A.S (I).

p1-2

p7 cf (also p78 cf)

p1 cf (para 4)

p3 cf (para 3(c))

p3 cf (last para)

(N)

Item No 1 at p2 (F) (A)

The point for consideration is whether the inam in this case ~~relates to~~ was an assignment of a fixed sum of land revenue mentioned in the D.D. (money grant) or whether the lands comprising the inam are to be enjoyed by the Church free of asst. in which case, the levy of cess will become justifiable.

In the South Kanara Dt. Manual, it has been mentioned at page 132 that "in the Dt. of South Kanara there are no inams in the sense of lands held free of assessment" and that an inam is merely an assignment of the asst. due to Govt called the Tasdik allowance. Hence, if the grant in this case is a fixed ~~sum of~~ allowance, the Church will not be liable to payment of cess, and if it is enjoying the lands, free of asst., the levy of cess will become justifiable as in the case of other inams.

In this connection, perusal is solicited of the notes at pp 26-32 of B.P. (No. 25) Pers dated 15.9.1913 and the orders of Govt. in G.O. No. 2545 Revenue dated 23-8-1913, from which it will be seen that in the case of churches which were enjoying the lands as inam, the Govt. approved the proposals of the Bd. and the D.C. to issue title deeds in respect of the lands held by them. This was the result of a few suits filed by the Roman Catholic Church in South Kanara regarding the grant of church inams, with refee. to the Govt order No. 587 dated 10.8.1821, wherein the Govt. sanctioned the remission of revenue on the lands held by the Christian

churches in the district of South Kanara. As the remission of land revenue was contemplated in respect of christian churches in South Kanara in the G.O. of 1821, the question of the levy of cess, and its exhibition in the accounts was first considered in Bd's Reflee. No 1503 of 12-7-1913, contained in G.O. No 2231 Rev. dated 25-7-1913, wherein the Bd. suggested that the full Sett. assr. should be shown in Village Account No 5 as a remission, so that land cess might be collected thereon: Subsequently with reflee to the letter of the Chr. of S. Kanara dated 14-6-1911, the Bd. recommended to the Govt. the desirability of issuing fresh DDs. in respect of the lands held by all the churches coming under the G.O. of 1821. This proposal was approved by the Govt. in G.O. No 2545 Rev of 23.8.1913. vide reflee. to these orders, a fresh D.R. was prepared (as Sch. A) and DDs. were issued for certain cases churches vizons in Reflee. No. 879/13 dated 2.2.1915. DD No 986 is one of them.

From what has been stated above it is clear that in the case of the inam in question, the church is allowed to enjoy the lands free of assr., and the Chr. also reports that it is enjoying the lands relating to the DD and that it has not been paying the difference between the actual assr. (namely Rs. 285-6-0) and the amount specified in the DD. (Rs. 254/-), as land revenue on the lands. He states that the amount of Rs. 254. was being paid by assignment of land revenue of Kuli warg. Nos of Bodamadgur and 84 of Tonse East and that the difference of assr. was remitted under G.O. 587 dated 10.8.1821.

As the church is enjoying the lands tax free, it is liable to levy cess on the inam like other religious institutions while they are enjoying lands and paying cess in the other districts. It was perhaps with this view, that in BP Mis.No. 4250, dated 20-12-1918, the Collr. was asked to open the village account No. 9, for the levy of cess, in respect of the villages in which Church inam lands occurred in the Dt. of South Kanara The petr. requests that he may be exempted from the levy of cess and that the amount of Rs. 85-8-0 collected from him under Sec. 5:6.42 may be refunded to him do not deserve any consideration. The petition may therefore be dismissed and the petr. may be told that as he is enjoying the lands tax free, the levy of cess is justifiable in this case for orders

2/9/43.

Note by 'A' Section.

Cess is leviable on the annual rent value of all occupied lands on whatever tenure held and the annual rent value in the case of Inam lands ~~less those deductible under Sec 79 (1) of the Local Boards Act~~ whether held wholly or partially free from assessment ~~has been defined in Sec 79 (1) of the Local Boards Act~~ is the full assessment which such lands would bear if they were not inam. It is thus seen that the levy of cess is irrespective of the consideration whether any or not any assessment is collected from the inamdar in respect of the land. The petr. cannot be exempted from the levy of cess in the present case.

10/10/43 10.10.43

The question is what is the meaning of the word
"free" in the title deed. Standard dictionaries are silent
... to shades about the meaning of this word.
They give the following.

10/9/43

Ref:- Asst Secy's query above. AS(II)

To A.S(I).

It is submitted that the exact meaning of the word
"free" used in T.D.s. is not readily traceable, the
P. Revenue may be asked to state whether it was
is construed in any of the High Court judgments. A draft
to the P. Madras submitted below for approval.

- Consult Supdt Hd Techl - when recently the meaning of "free" was dealt with.

1/10/43
1/10/43

To A.S(I).

With refce to the orders of A.S. above, the Supdt Hd Techl
has been consulted. It is ascertained that the
required file was submitted to Secy. on 9-9-43; and that
it may take some time to get it back. ~~H.L.T.~~ It is
also ascertained from the library that the M.L.T. II Volume of 1942 (page 150)
on the question of taxpreeyas discussed
was sent to press for binding, and is not therefore
available now. In the meantime the Govt. Madras
may be consulted as suggested above. A draft to the Govt.
is submitted below for approval

Can such reply be issued by us?

10/9/43

10/9/43

Refee:- Asst Secy's query wt ppg.

To A.S(I).

According to B.P. No 6(S) Secs dated 22-1-43 the Govt Pleaders can advise the Board on any point on which his opinion may be sought, besides advocacy suits. In the circumstances, a refee may be made to the G.P. to enlighten on the High Court rulings if any about the meaning of the word 'tax free' in TDs. If the refee is considered necessary, the file may be sent to him as no. for his opinion.

18/9/43 21.9.43

MG
JS
A.S(I) to (L.R) ppg from the Govt Pleader Madras No: 15-13/43 dt 14-10-43

To A.S.(I).

The file in question relates to an appeal preferred by the Manager Milagres church, Kallianpur against the order of the Coll. of South Kanara levying land cess on the alienated asst. of the inam covered by TD no. 986 of Brdanidiyur Kge. Udipi taluk, South Kanara district. The petitioner's contention is that the inam in question is to be held tax free in accordance with the wording in para 2 of the T.D.. He requests that the cesses of Rs85.8 collected from him on 5-6-42 may be refunded to him, and that he may be granted remission of cesses in future also.

2/ The full facts of the case have been given in detail in the notes at pp 10-13 n.f. and they may kindly be perused. The G.P. Madras, who has been requested to refer to the Board, the High Court rulings if any, about the meaning of the word 'tax free' used in I.D.S. moved by the Dc, States that as far as he is aware there is no case which deals with the meaning of the word 'tax free', and that in a recent case where lands are held free from land tax, the High Court held that the Govt. have no right to levy water cess under the Irrigation cess Act. The authority quoted by him is page 34 of I.L.R. Madras Series 1943. — (Book put up). In the typing of the judgment, the wording of the certificate granted on 1-3-1866 is given at p.36 of the book, and it is also mentioned at p.37. that on 5-7-1867, the Collr. passed an order in which he had declared that the lands were liable only to village cess, and road cess. As the charge for water, for the purpose of cultivation was considered to be a charge on the land, and was therefore held to be in the nature of a land tax, and as the wording of the certificate showed that the lands were exempt from all demand on account of land tax, the High Court held that the lands were not liable to water cess by Govt.; ~~From the note of 'A' section at p.13 n.f. it is seen that~~ Cess is an item levied on all occupied lands on whatever tenure they are held, and it is not

Vide p.12 n.f. for the law.

Wrongly p.36 of the book.

Vide p.37 of book.

(Vide p.13 N.F. A Section)

due to Govt., but due to the District Board. As the petr. is enjoying the inam lands, like other holders of service inams ~~inamdars~~ who are enjoying the lands free from asst., it is subd. that he is also liable to pay cess like other inamdars, and ~~that~~ he cannot be exempted from the levy of cess. In the circumstances, it is subd. that his petn. may be rejected, and ~~that~~ he may be told that he cannot be exempted from the levy of cess, as it is due to the Dt. Board.

For orders.

25/10/43.

Petition from the Manager, Milagres Church, Kallianpur, dated 17th October 1942.
From the Collector of South Kanara L.Dis.No.9427/42, dated 29th January 1943.
-do- -do- L.Dis.1924/43, dated the 15th May 1943.
-do- -do- L.Dis.4739/43, dated the 21st August 1943.
From the Govt. Pleader Opn.No.1513 of 1943 dated 14th October 1943.

To J.S.

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This is a revision petition by the Manager, Milagres church, Kallianpur, South Kanara District against the orders of the Collector levying land cess on the theoretical assessment on the inam covered by T.D.No.986 - issued on 2.2.1915.

The petitioner's contention is that the inam in questio is to be held tax-free - in accordance with the wording in para 2 of the title deed which runs, "This inam is confirmed to you and your successors tax-free, to be held without interference as long as the conditions of the grant are duly fulfilled". The word tax-free is, according to him to be interpreted to mean complete freedom from any kind of money demand in respect of the inam lands. He wants the land cess amounting to Rs.85.8.0 already collected may be refunded to him.

This inam is one of the cases in which Title Deeds were issued in the year 1915 in pursuance of the orders of Govt. in G.O.No.2545, Rev. dated 23.8.1913 - The History of these lands which led to the issue of these title deeds is interesting. It is given in full in the office note (pp. 26 to 33) of the file B.P.No.257 dated 15.9.1913. The History may be summarised as follows:-

In G.O.No.587, Rev. dated 10.8.1821, lands belonging to a number of Roman Catholic churches in South Kanara District were exempt from the payment of assessment to Govt. That is to say, the land revenue on the lands held by these institutions were assigned as inams. At the resettlement of the South Kanara District the question was raised whether the assessment on these lands (held assessment free) could be revised. The Govt. decided in 1902 that the assessment could be revised and that the difference between the settlement assessments and the assignments should be collected from the wargdars concerned and credited to Govt. Several of the churches protested against this imposition of assessment and some filed suits against Govt. The suit filed in 1908 by the Milagres church at Mangalore was decided in favour of the church. When the question of filing an appeal against the District Munsiff's decision came up before the Board, the Board decided that the intention of the G.O. of 1821 was to grant to the churches not merely the benefit of a specified sum of money, but the enjoyment free of assessment of the lands which were then in their possession; and hence the Govt. were not entitled to the benefit of any increase in the assessments due to resettlement; and in this view obtained orders of Govt. not to appeal against the decision. When, a little later, the question of how to exhibit the resettlement assessments in the accounts was discussed, the Board came to the conclusion that it would be more proper to treat the warg as inam free of assessment and to issue title deeds in favour of the churches concerned; and recommended the issue of inam title deeds and this was ordered in G.O.No.2545 Revenue, dated 23.8.1913.

The present case relates to one of the title deeds thus issued. The title deed says of course that the lands are to be held tax free.

This however obviously means only free of land tax, and cannot involve immunity from land cess. The study of the correspondence which preceded the issue of these title deeds clearly shows that the intention of the Govt. was not to declare these lands immune from land cess. As a matter of fact the procedure adopted was to exhibit the full assessment against these lands and then to bring the lands to the No.5 Acct. (Remission) and to remit the whole assessement, ~~and when the Collr. said~~ When the question arose, whether No.9 Accts. should be opened for the villages in which they are situated, the Collr. said, "It does not appear to me this is necessary considering how few cases there are. The present procedure seems to be adequate and I do not think there is any chance of the cesses being overlooked under it." In R.P.No.4250 dated 20.12.1913 the Board ordered that ~~Village Acct. No.9~~ Village Acct. No.9 should be opened in respect of the villages in which church inam lands occur. (Village Acct. No.9 is the statement of local and special funds). And the rule is that land cess and railway cess should be levied on the gross demand without regard to any remission that may have been granted. So the land cess on the full resettlement assessment on these lands has to be levied even through the full resettlement assessment is not collected. (As a matter of fact no assessment is collected). The word 'tax free' cannot be held to mean "free of land cess."

The Govt. Pleader, Madras was consulted as to whether ther are any decisions of the Madras High Court defining the meaning of the word 'tax free' in such a context and the G.P. says there are no such decisions. He refers to a recent decision which said that where lands are held free of "land tax" the Govt. have no right to levy water cess under the Irrigation Cess Act. This decision has of course no application to the present case.

The petition put in by the Manager of the Vilagres church

Kalliampur may be rejected and the banker informed that the word tax free does not mean that it is free of land cess (levied under section 79(ii) of the L. Rd's. Act) but that it means only exemption from land assessment.

A for approval.

RJ
1.11.43.

The A.S. (I)'s note makes it clear enough that the intention of Govt. and the Board was to exempt the land from land revenue but not from cesses. The words used in the Title Deed are however 'tax free', without qualification. Cesses are also taxes, both in dictionary definitions, in legislative enactments, & in practice; and a court is likely to construe the Title Deed strictly, without reference to intentions to be gathered from the correspondence.

I see no reason why the Missions should not pay cesses, which are for their benefit as well as others' when spent on roads &c. They will probably try a suit, & we may make it a test case for the construction of these embarrassing T.Ds.

RG
2/11

Defence copied
Ent
6/11/43

To A.S(I).

Orders above. Draft Submitted

11/11/43

Joint Sec
1 ONOV 194
M-5

ASSISTANT SECRETARY.
1 ONOV1943

Asst (I)

Ans copy.